

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

UNITED STATES OF AMERICA,

Plaintiff,

v.

MICHAEL GENE BERGER,

Defendant.

CASE NO. CR01- 43 P

PROPOSED FINDINGS OF
FACT AND DETERMINATION
AS TO ALLEGED VIOLATIONS
OF SUPERVISED RELEASE

INTRODUCTION

I conducted a hearing on alleged violations of supervised release in this case on August 15, 2005. The United States was represented by Floyd Short. The defendant was represented by Robert Leen. The proceedings were recorded on disk.

CONVICTION AND SENTENCE

Defendant had been convicted of Bank Fraud on or about August 3, 2004. The Hon. Marsha J. Pechman of this court sentenced Defendant to 6 months of custody, followed by 6 months of home confinement and 5 years of supervised release.

The conditions of supervised release included requirements that defendant comply with the standard 13 conditions.

DEFENDANT'S ADMISSION

USPO Jerrod Akins alleged that Defendant violated the conditions of supervised release in 5 respects:

- (1) Failing to report a change in residence, in violation of standard condition No. 6;
- (2) Failing to obtain full-time employment, in violation of standard condition No. 5;
- (3) Failing to participate in anger management treatment, in violation of the special condition that he participate as directed in a mental health program - specifically, anger management counseling - approved by the United States Probation Office;
- (4) Possessing cocaine on June 9, 2005, in violation of the general condition that he not illegally possess a controlled substance; and
- (5) Possessing ecstasy on June 9, 2005, in violation of the general condition that he not illegally possess a controlled substance.

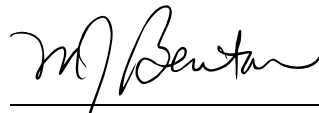
At an initial hearing, I advised the defendant of these charges and of his constitutional rights. At today's hearing the Defendant admitted the violation No. 4, waived any hearing as to whether it occurred, and agreed to resolve the remaining violations Nos. 1, 2, 3 and 5 at an evidentiary hearing before the Hon. Marsha J. Pechman.

RECOMMENDED FINDINGS AND CONCLUSIONS

Based upon the foregoing, I recommend the court find that Defendant has violated the conditions of his supervised release as alleged in violation No. 4; and set the matter for a evidentiary hearing on all remaining allegations.

Defendant has been detained pending a final determination by the court.

DATED this 17th day of August, 2005.



Monica J. Benton
United States Magistrate Judge

cc:	Sentencing Judge	:	Hon. Marsha J. Pechman
	Assistant U.S. Attorney	:	Floyd Short
	Defense Attorney	:	Robert Leen
	U. S. Probation Officer	:	Jerrod Akins